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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INSOLVENCY PETITION NO.111 OF 2006

Re.: .
Richard D'Souza ...Debtor

Ex-parte:
Citizencredit Co-op. Bank Ltd. ...Petitioning Creditor

Mr.O.A. Das, Advocate, for the Petitioning Creditor.

CORAM : ABHAY S. OKA, J.
DATED : 16TH OCTOBER, 2007.

P.C.:

1. An insolvency notice which is the subject matter of this petition has been taken out on the basis of a recovery certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960.

2. In view of the decision of this Court dated 4th September, 2007 in Notice of Motion No.40 of 2007 (Re.Kishore K. Mehta) and other connected matters, an insolvency notice under Section 9(2) of the Presidency Towns Insolvency Act, 1909 could not have been taken out on the basis of a recovery certificate issued under Section 101 of the said Act of 1960.

3. Therefore, even if the debtor fails to take steps for setting aside the insolvency notice within the time stipulated by law, no consequences will flow from the insolvency notice. Therefore, the petition is not maintainable and the same is dismissed as not maintainable.

[ABHAY S. OKA, J.]